



Attorney Docket No. 4450-0122P

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No. 8406
)
Jean Luc Archambault et al.) Group Art Unit: 2874
)
Serial No.: 09/975,728) Examiner: Ellen E. Kim
)
Filed: October 11, 2001)
)
For: WDM SYSTEM WITH)
PERFORMANCE MONITORING)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

October 6, 2003
(Monday)

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REQUEST FOR RECONSIDERATION

Applicants respectfully request reconsideration of the Office Action dated April 4, 2003, the period for response to which has been extended through October 6, 2003 (October 4, 2003 being a Saturday and October 5, 2003 being a Sunday), by a petition for extension and fee payment filed contemporaneously herewith.

In the Office Action, the Examiner rejected claim 12 under 35 U.S.C. § 112, second paragraph; rejected claims 1, 3, 4, 8-11 and 19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,696,615 to Alexander; rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of U.S. Patent No. 5,627,927 to Udd; rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of U.S. Patent No. 5,796,891 to Poustie et al.; rejected claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Alexander; rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over

Alexander in view of U.S. Patent No. 5,784,184 to Alexander et al.

("Alexander II"); rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of U.S. Patent No. 5,784,506 to Pfeiffer; rejected claim 21 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of U.S. Patent No. 5,777,769 to Coutinho; and objected to claims 6, 7 and 16-18.

Applicants gratefully acknowledge the Examiner's indication of allowable subject matter in claims 6, 7 and 16-18.

Claims 1-21 are pending in the above-captioned patent application.

Applicants respectfully traverse the Examiner's rejection of claim 12 under 35 U.S.C. § 112, second paragraph. In rejecting claim 12, the Examiner apparently contends that Fig. 1 of Applicants' application does not show an external modulator coupled to a second transmitter. Applicants respectfully point out, however, that claim 12 recites that the second transmitter includes an external modulator. As shown in Fig. 1, an additional transmitter 140 (corresponding, for example, to the claimed second transmitter) includes an external modulator (see also page 7, lines 14-22 of Applicants' specification). Accordingly, claim 12 is adequately supported by Applicants' disclosure. Applicants therefore respectfully request reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. § 112, second paragraph.

Applicants respectfully traverse the Examiner's rejection of claims 1, 3, 4, 8-11 and 19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,696,615 to Alexander.

Independent claim 1, for example, is not anticipated by Alexander because the applied reference fails to teach each and every element of the claim. In particular, Alexander at least fails to disclose the claimed combination including a second optical transmitter emitting a second optical signal having a second wavelength which is variable.

As noted by the Examiner, Alexander discloses a wavelength division multiplexed (WDM) optical communication system. Each transmitter in this system, however, emits light at a wavelength corresponding to a demultiplexer wavelength in one of receiving systems 100, as shown in Figs. 1 and 3 (see also col. 5, lines 2-3 of Alexander). Significantly, however, Alexander is entirely silent as to whether these transmitters are variable. Moreover, Alexander apparently teaches that the transmitter wavelength is substantially fixed ("the precise operating wavelength of the laser is maintained, typically to within a one angstrom bandwidth", col. 4, lines 7-9). Accordingly, Alexander teaches away from the claimed second transmitter emitting a second optical signal having a variable wavelength, as recited in independent claim 1.

Claim 19 is similar to claim 1 in that it also recites a second optical transmitter emitting a second optical signal having a variable wavelength. Claim 19, therefore, is distinguishable over Alexander at least for reasons discussed above in connection with claim 1.

In light of the above-described deficiencies of Alexander,

Applicants respectfully submit that claims 1 and 19 are allowable over the applied reference, and claims 3, 4 and 8-11 are allowable at least due to their dependence from claim 1.

Applicants respectfully traverse the Examiner's rejection of claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Udd; rejection of claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Poustie et al.; rejection of claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Alexander; rejection of claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Alexander II; rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Pfeiffer; and rejection of claim 21 under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Coutinho. Applicants respectfully submit that even if the cited teachings of each secondary reference in each of the Examiner's rejections under Section 103 were combinable with Alexander, and with respect to the rejection of claims 12 and 13, even if the teachings of Alexander could be modified to include an external modulator, the resulting combination of teachings would still fail to overcome the above-described shortcomings of Alexander. Namely, none of the applied references teaches or suggests the claimed combination including a second transmitter emitting a second optical signal having a variable wavelength, as recited in independent claims 1 and 19. Thus, claims 2, 5 and 12-15, are deemed allowable at least due to their dependent from independent claim 1, and claims


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20 and 21 are considered allowable at least due to their
dependence from independent claim 19.¹

In light of the foregoing, Applicants respectfully request reconsideration of the present application, and a timely allowance of the pending claims.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a three-month extension of time for filing a reply in connection with the present application, and the required fee of \$930.00 is attached hereto.

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 02-2448. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the Deposit Account.

Respectfully submitted,

By:  # 39,491
David L. Soltz
Reg. No. 34,731

Date: October 6, 2003

¹ Applicants respectfully note that the Office Action does not contain a rejection of claim 20. Since claim 20 depends from independent claim 19, Applicants submit that claim 20 is allowable, at a minimum, due to its dependence from independent claim 19.